

Served: November 7, 1997



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.**

Issued by the Department of Transportation  
on the 15<sup>th</sup> day of October, 1997

**Applications of**

**America West Airlines, Inc.**

**American International Airways, Inc.**

**Challenge Air Cargo, Inc.**

**Continental Micronesia, Inc.**

**Dockets OST-97-2673**

**OST-97-2765**

**OST-96-1920**

**50250**

**OST-97-2558**

**for certificates of public convenience and necessity  
under section 41102 of Title 49 U.S.C. and the orders  
and regulations of the Department of Transportation**

**ORDER ISSUING CERTIFICATES**

The captioned applicants seek grant, renewal, and/or amendment of certificates of public convenience and necessity under section 41102 of Title 49 of the United States Code. The applications are fully described in the attachments to this order. Because the public convenience and necessity bases for granting these applications are clear, and the applications are not controversial, it is appropriate to use this simplified, Subpart Q procedure to grant the requested authority.<sup>1</sup>

The applicants have filed and perfected each application as required by 14 CFR 201 and served it as required by 14 CFR 302.1705. Each application was summarized in the Federal Register, as cited in the relevant descriptive attachment, and was also summarized in the Department's published weekly list of applications filed. These notices described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Except as noted in individual attachments, no answers to these applications were filed.

<sup>1</sup> 14 CFR 302.1701 et seq. Under Rule 29(b) we may, in our discretion, omit a tentative decision in proceedings under Subpart Q and proceed directly to a final decision.

### Public Convenience and Necessity

We find that grant or amendment of these certificates is consistent with the public convenience and necessity. Where, as noted, the services authorized are the subject of a bilateral agreement, the certificate is consistent with the agreement and uses rights for which the United States has exchanged valuable operating rights. For authority which is not the subject of a bilateral agreement, the grant is consistent with the overall state of aviation relations between the United States and the foreign countries involved. All of the authority conferred here contributes to the variety of price and service options available to travelers and shippers.

### Fitness/Citizenship

Each applicant is a citizen of the United States as defined in 49 U.S.C. 40102(a)(15). Each is an operating certificated air carrier for which the authority at issue here would not constitute a substantial change in operations which would require further review by the Department. No information has come to our attention which leads us to question the fitness of the applicants to conduct air transportation operations. Therefore, on the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we find each applicant is fit, willing and able to provide the services authorized.

### Terms, Conditions and Limitations

Each certificate of public convenience and necessity is subject to the standard terms, conditions, and limitations we consistently impose in the public interest. Duration of certificate authority is determined by the nature of the routes at issue. Where routes may be served by multiple U.S. carriers, without restrictions on additional entrants, the certificates are of indefinite duration. Where limited-entry routes are involved, we issue temporary, experimental certificates of five years' duration under 49 U.S.C. 41102(c).<sup>2</sup> The certificates issued to Challenge Air Cargo and Continental Micronesia are granted for a five-year term; the certificates issued to America West and American International are for an indefinite duration.

### Pendente Lite Exemptions

For those services operated under current exemptions, those exemptions will expire in accordance with their own terms 90 days after we submit this order for review under 49 U.S.C. 41307. For those routes operated under expired exemptions and kept in force by 5 U.S.C. 558(c), the exemption renewal applications on file will be dismissed by separate order, upon the effectiveness of the corresponding certificates of public convenience and necessity. The attachments cite the relevant currently held authority.

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<sup>2</sup> 14 CFR Part 399.120.

### Findings and Conclusions

In view of the foregoing and all the facts of record, we find and conclude that:

1. It is consistent with the public convenience and necessity to amend or issue each applicant a certificate in the form attached;
2. Each applicant is a citizen of the United States and is fit, willing and able to perform properly the foreign air transportation described in the attached certificate or certificate amendment and to conform to the provisions of Subtitle VII of Title 49, United States Code (Transportation), and to the Department's rules, regulations, and requirements;
3. The public interest requires that the exercise of the privileges granted by the attached certificates and certificate amendments be subject to the terms, conditions and limitations contained in and attached to those certificates and to such others required by the public interest as the Department may prescribe;
4. Except as otherwise noted in the attachments, the issuance of each of these certificates and certificate amendments does not constitute a "major regulatory action" under the Energy, Policy and Conservation Act of 1975, as defined by section 313.4(a)(1) of the Department's regulations;<sup>3</sup> and
5. The public interest does not require an oral evidentiary hearing or a show-cause proceeding on any of these applications. There are no material, determinative issues of fact requiring such procedures for their resolution.

ACCORDINGLY,

1. We amend or issue in the form attached, certificates of public convenience and necessity to the applicants listed in the caption of this order;
2. The certificates and certificate amendments will be effective 30 days after the service date of this order, subject to the extension of those effective dates in accordance with the provision of the certificate amendments;
3. To the extent not granted, dismissed or deferred, we deny all motions and requests in these dockets;
4. We dismiss the application of American International Airways, in Docket OST-97-2765 to the extent that it seeks certificate authority to serve Thailand;<sup>4</sup>

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<sup>3</sup> Our finding is based on the fact that grant of each application would not result in a near-term increase in annual fuel consumption in excess of 10 million gallons.

<sup>4</sup> See Attachment B, page 1.

5. Unless disapproved by the President of the United States under 49 U.S.C. 41307, this order shall become effective upon the 61st day after its submission for section 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department's order under that section, whichever occurs earlier;<sup>5</sup> and

6. We will serve this order on the parties to the captioned dockets of this order, the Ambassador in Washington, DC of each country that the applicants seek authority to serve, the U.S. Department of State (Office of Aviation Negotiations), and the Federal Aviation Administration.

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation and  
International Affairs

(SEAL)

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<sup>5</sup> This order was submitted for section 41307 review on October 15, 1997. On November 3, 1997, we received notification that the President's designee, under Executive Order 12597 and implementing regulations, did not intend to disapprove the Department's order.

America West Airlines, Inc.

Certificate of Public Convenience and Necessity

**Filed:** 7/1/97      **Docket:** OST-97-2673      **Notice:** 62 FR (37637) 7/14/97

**I. Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between a point or points in the United States and a point or points in Canada.

**II. Relevant Currently Held Authorities:** America West holds certificate authority to provide scheduled foreign air transportation of persons, property, and mail between Phoenix, Arizona, and Las Vegas, Nevada, on the one hand, and Vancouver, Canada, on the other. Order 96-10-30. America West also holds exemption authority to serve between any point in the United States and any point in Canada (See Order 97-8-17).

**III. Pleadings:** No answers were filed.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and Canada signed on February 24, 1995.

**V. Fitness/Citizenship:** America West has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of person, property, and mail as a certificated carrier under section 41102 Title 49 U.S.C. See, e.g., Order 96-10-30. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question America West's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard.

**VII. Duration:** Indefinite.



# **Certificate of Public Convenience and Necessity**

**For Route**

**749**

**This Certifies That**

**America West Airlines, Inc.**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 97-11-2  
On October 15, 1997  
Effective on December 8, 1997**

**Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs**

Terms, Conditions and Limitations

America West Airlines, Inc. for **Route 749**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

Between a point or points in the United States, and a point or points in Canada.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (5) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (6) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and

this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.

(7) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.

(8) In the event that the holder commences operations for which it was found "fit, willing, and able," and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

(9) Except for rights and authorities available or existing prior to February 24, 1995, and operations separately authorized by the Department pursuant to the U.S.-Canada Air Transport Agreement signed February 24, 1995, the holder may not commence new combination air services to Toronto until February 24, 1998.

(10) Any all-cargo services operated under this certificate shall be subject to the following condition:

Points in the territory of Canada shall not be combined on any same plane scheduled or nonscheduled all-cargo courier service operated with aircraft having a maximum takeoff weight greater than 35,000.

(11) In addition to the authority granted on this certificate, the holder may also conduct operations beyond points in Canada to points in third countries that it holds authority to serve, without local traffic rights between points in Canada and such other points in third countries (i.e., on a blind sector basis).

This certificate shall become effective December 8, 1997, provided, however, that prior to the date on which the certificate would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this certificate, may by order or orders extend such effective date from time to time.

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\*This certificate is issued to reflect new authority in the U.S.-Canada market. It also incorporates new standard terms and conditions applicable to U.S. carrier certificates and specific conditions applicable to U.S.-Canada operations.



American International Airways, Inc.

Amendment of Certificate for **Route 677**

**Filed:** 7/25/97      **Docket:** OST-97-2765      **Notice:** 62 FR (41991)      8/4/97

**I. Authority Sought:** Scheduled foreign air transportation of property and mail between a point or points in the United States and a point or points in Singapore, Thailand, and Indonesia. AIA seeks to add authority to serve these countries to existing authority on segment 1 of Route 677.

**II. Relevant Currently Held Authorities:** American International Airways holds certificate authority to provide scheduled foreign air transportation of property and mail between the United States and various points in the Pacific and Central and South America. Order 95-9-23. American International Airways also holds exemption authority to serve between Honolulu, Hawaii, and Jakarta, Indonesia via Melbourne, Australia (See Order 96-7-42).

**III. Pleadings:** No answers were filed.

**IV. Public Convenience and Necessity:** The authority requested with respect to Singapore and Indonesia is consistent with the aviation agreements between the United States, on the one hand, and Singapore and Indonesia, on the other. The route integration authority granted by including services to these countries on segment 1 is consistent with our policy to permit carriers the maximum operating flexibility possible in operating their international services. Such authority is subject to compliance with the applicable bilateral aviation agreements with the foreign countries involved and our revised standard condition regarding services to more than one country on the same route segment (condition (2)). With respect to Thailand, the aviation agreement between the United States and Thailand limits the number of frequencies that U.S. carriers may operate in scheduled all-cargo services. By Order 96-9-16 the Department allocated all of the available U.S.-Thailand all-cargo frequencies. As no frequencies are available, we will dismiss American International Airways' application to the extent that it seeks certificate authority to serve Thailand.

**V. Fitness/Citizenship:** American International Airways has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of person, property, and mail as a certificated carrier under section 41102 Title 49 U.S.C. See, e.g., Order 95-9-23. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question American International Airways' fitness to conduct the air transportation operations authorized here.

VI. **Terms, Conditions and Limitations:** Standard.

VII. **Duration:** Indefinite.

American International Airways, Inc.

Certificate Amendment for **Route 677**

Amend segment 1 to read as follows:

1. Between a point or points in the United States and a point or points in Australia, New Zealand, Taiwan, Hong Kong, Singapore, and Indonesia.

This certificate amendment shall become effective December 8, 1997, provided, however, that prior to the date on which the certificate amendment would otherwise become effective, the Department, either on its own initiative or upon a timely filing of a petition for reconsideration of the order issuing this amendment may by orders or orders extend such effective date from time to time.

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\*This certificate, issued by Order 95-9-23 and amended by Order 97-10-8, is further amended to reflect award of new authority between the United States and Singapore and Indonesia on segment 1.

Challenge Air Cargo, Inc.

Renewal of Certificate for **Route 626**

**Filed:** 11/1/96      **Docket:** OST-96-1920      **Notice:** 61 FR (57942) 11/8/96

**I. Authority Sought:** Renew certificate to provide scheduled foreign air transportation of property and mail between the coterminal points Miami, Florida, and Los Angeles, California; via intermediate points in Colombia, Ecuador, and the Republic of Panama; and the coterminal points Manaus, Brasilia, Rio de Janeiro, Sao Paulo, Porto Alegre, Belem, Belo Horizonte, and Salvador, Brazil.

**II. Relevant Currently Held Authorities:** Challenge Air Cargo holds certificate authority to engage in scheduled foreign air transportation of property and mail between the coterminal points Miami, Florida, and Los Angeles, California; via intermediate points in Colombia, Ecuador, and the Republic of Panama; and the coterminal points Manaus, Brasilia, Rio de Janeiro, São Paulo, Recife, Porto Alegre, Belem, Belo Horizonte, and Salvador, Brazil. (Order 92-5-3) Under the terms of the certificate, Challenge's authority expired May 3, 1997. Challenge filed a timely application for renewal, and its authority has remained in effect pursuant to the provisions of the Administrative Procedure Act, 5 U.S.C. 558(c), pending action on its renewal application.

**III. Pleadings:** No answers were filed.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and Brazil.

**V. Fitness/Citizenship:** Challenge has previously been found to be a citizen of the United States, and fit, willing, and able to provide scheduled foreign air transportation of property and mail as a certificated carrier under section 41102 Title 49 U.S.C. See, e.g., Order 96-10-2. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulation warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Challenge's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard.

**VII. Duration:** Five years. Section 41102 (c).



# **Experimental Certificate of Public Convenience and Necessity**

**For Route  
626  
(as reissued)**

**This Certifies That**

**Challenge Air Cargo, Inc.**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of property and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 97-11-2  
On October 15, 1997  
Effective on December 8, 1997**

**Charles A. Hunnicutt  
Assistant Secretary for Aviation  
and International Affairs**

Terms, Conditions and Limitations

Challenge Air Cargo, Inc. for **Route 626**

is authorized to engage in foreign air transportation of property and mail:

Between the coterminal points Miami, Florida, and Los Angeles, California; via intermediate points in Colombia, Ecuador, and the Republic of Panama; and the coterminal points Manaus, Brasilia, Rio de Janeiro, São Paulo, Recife, Porto Alegre, Belem, Belo Horizonte, and Salvador, Brazil.

This authority is subject to the following terms, conditions, and limitations:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder is not authorized to carry passengers (other than cargo attendants accompanying freight shipments).
- (3) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (4) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (5) The holder acknowledges that this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (6) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (7) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (8) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (9) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (10) In the event that the holder commences operations for which it was found "fit, willing, and able," and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.

This certificate shall become effective December 8, 1997, provided, that prior to the date on which this certificate would otherwise become effective, the Department either on its own initiative or on the timely filing of a petition for reconsideration, may by order or orders extend such effective date from time to time. It shall expire five years thereafter, unless the Department earlier suspends, modifies or deletes the authority.

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\*This certificate, originally issued by Order 92-5-3, is reissued to reflect renewal of authority for an additional five years, and to incorporate new standard conditions applicable to U.S. carriers.

Continental Micronesia, Inc.

Amendment of Certificate for **Route 171**

**Filed:** 3/31/95

**Docket:** 50250

**Notice:** 60 FR (18654) 4/12/95

**I. Authority Sought:** Scheduled foreign air transportation of persons, property, and mail between Guam and Saipan, on the one hand, and the Philippines, on the other. Continental Micronesia seeks this authority by adding the Philippines to Segment 12 of its certificate for Route 171, thereby affording it the ability to integrate its Philippine services with its services to the other foreign points named on the segment.

**II. Relevant Currently Held Authorities:** Continental Micronesia holds certificate authority on Segment 12 of Route 171 to provide scheduled foreign air transportation of persons, property, and mail between Guam and Saipan, on the one hand, and a point or points in Indonesia, Malaysia, Thailand, Sri Lanka, and India, on the other. Order 92-11-46. Continental Micronesia also holds certificate authority on Route 171 to serve the Philippines from Guam/Saipan and Honolulu. It has been allocated seven weekly frequencies for its U.S.-Philippine services. See Order 96-9-11.

**III. Pleadings:** See Section IV, below.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreement between the United States and the Philippines. The route integration granted by including the Philippines on segment 12 is consistent with our policy to permit carriers the maximum operating flexibility possible in operating their international services. Such authority is subject to compliance with the applicable bilateral aviation agreements with the foreign countries involved and our revised standard condition regarding services to more than one country on the same route segment (condition (2)).

In its application Continental Micronesia indicated that it planned to use the combination authority sought to operate all-cargo services in the Guam/Saipan-Philippines market. At the time Continental Micronesia's application was filed the authority it sought was not provided for under the then-governing aviation agreement between the United States and the Philippines. Northwest Airlines, Inc. filed an answer stating that the application was extrabilateral and should not be granted. Since the filing of Continental Micronesia's application, the aviation agreement between the countries has been amended to provide for the authority sought by Continental Micronesia, thereby resolving the issue raised by Northwest.

**V. Fitness/Citizenship:** Continental Micronesia has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated carrier under section 41102 Title 49 U.S.C. See, e.g., Order 96-10-44. The foreign air transportation authorized does not constitute a substantial change in



operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Continental Micronesia's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard. We will reissue Continental Micronesia's certificate for Route 171 to add the Philippines as an additional foreign coterminal point on segment 12, to remove obsolete terms and conditions, and to add new standard terms and conditions applicable to U.S. carrier certificates.

**VII. Duration:** Five years. Section 41102(c).

Continental Micronesia, Inc.

Renewal of Certificate for **Route 171**

**Filed:** 5/27/97      **Docket:** OST-97-2558      **Notice:** 62 FR (31187) 6/6/97

**I. Authority Sought:** Renew segments 3 (Japan), 4 (the Philippines), 5 (the Philippines), and 6 (Japan) of Route 171 to provide scheduled foreign air transportation of persons, property, and mail (1) between the terminal point Saipan, Commonwealth of the Northern Mariana Islands, and intermediate points and a terminal point in Japan (other than the Ryukyu Islands; (2) between Honolulu, Hawaii and the Philippines; (3) between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; Guam; Palau; and the Federated States of Micronesia; on the one hand, and a point in the Philippines, on the other; and (4) between the coterminal points Saipan and Guam, on the one hand, and Fukuoka, Japan, on the other.

**II. Relevant Currently Held Authorities:** Continental Micronesia currently holds certificate authority on the above segments. Order 92-11-46. It has been allocated seven weekly frequencies for its U.S.-Philippines services. See Order 96-9-11.

**III. Pleadings:** The Commonwealth Ports Authority and the State of Hawaii filed answers in support of Continental Micronesia's application.

**IV. Public Convenience and Necessity:** The authority requested is consistent with the aviation agreements between the United States and the Philippines and between the United States and Japan.

**V. Fitness/Citizenship:** Continental Micronesia has previously been found to be a citizen of the United States and fit, willing, and able to provide scheduled foreign air transportation of persons, property, and mail as a certificated carrier under section 41102 Title 49 U.S.C. See, e.g., Order 96-10-44. The foreign air transportation authorized does not constitute a substantial change in operations under Part 204 of the Department's regulations warranting further review by the Department. Moreover, no information has come to our attention which would lead us to question Continental Micronesia's fitness to conduct the air transportation operations authorized here.

**VI. Terms, Conditions and Limitations:** Standard. We will renew segments 3, 4, 5, and 6 of Continental Micronesia's certificate for Route 171.

**VII. Duration:** Five years. Section 41102(c).



**Experimental Certificate  
of Public Convenience and Necessity  
for  
Route 171  
(as reissued)**

**This Certifies That**

**Continental Micronesia, Inc.**

**is authorized, subject to the provisions of Subtitle VII of Title 49 of United States Code, the orders, rules, and regulations issued thereunder, and the attached Terms, Conditions, and Limitations, to engage in foreign air transportation of persons, property, and mail.**

**This Certificate is not transferable without the approval of the Department of Transportation.**

**By Direction of the Secretary**

**Issued by Order 97-11-2**

**On October 15, 1997**

**Effective on December 8, 1997**

**Charles A. Hunnicutt**

**Assistant Secretary for Aviation**

**and International Affairs**

Terms, Conditions and Limitations

Continental Micronesia, Inc. for **Route 171**

is authorized to engage in scheduled foreign air transportation of persons, property, and mail:

1. Between the terminal point Honolulu, Hawaii, intermediate points in Johnston Island, Nauru, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (Palau), and the terminal point Guam.
2. Between the terminal point American Samoa, intermediate points in the Ellice and Gilbert Islands, Nauru, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands (Palau), and the terminal point Guam.
3. Between the terminal point Saipan, Commonwealth of the Northern Mariana Islands, and intermediate points and a terminal point in Japan (other than the Ryukyu Islands).
4. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; Honolulu, Hawaii; and Guam, on the one hand; and coterminal point or points in the Republic of Palau; Korea; Taiwan; Hong Kong; Singapore; and the Philippines, on the other hand.
5. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; Guam; the Trust Territory of the Pacific Islands (Palau); and the Federated States of Micronesia; and a point or points in the Philippines.
6. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and Fukuoka, Japan, on the other hand.
7. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and Naha, Japan, on the other hand.
8. Between the coterminal points Honolulu, Hawaii, and Guam, on the one hand, and the terminal point Port Moresby, Papua New Guinea, on the other hand.
9. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and Sapporo and Sendai, Japan, on the other hand.
10. Between Guam, on the one hand, and Tokyo, Japan, on the other hand.

11. Between Guam and the Commonwealth of the Northern Mariana Islands, on the one hand, and Brisbane and Sydney, Australia, on the other.

12. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and a point or points in the Philippines, Indonesia, Malaysia, Thailand, Sri Lanka, and India, on the other.

13. Between the terminal point Honolulu, Hawaii, and the terminal point Tokyo, Japan.

14. Between the coterminal points Saipan, Commonwealth of the Northern Mariana Islands; and Guam, on the one hand; and Osaka, Japan, on the other.

This authority is subject to the following conditions:

- (1) The holder shall at all times conduct its operations in accordance with the regulations prescribed by the Department of Transportation for the services authorized by this certificate, and with such other reasonable terms, conditions, and limitations as the Department of Transportation may prescribe in the public interest.
- (2) The holder shall at all times conduct its operations in accordance with all treaties and agreements between the United States and other countries, and the exercise of the privileges granted by this certificate is subject to compliance with such treaties and agreements and with any order of the Department of Transportation issued under them. To the extent that the holder has authority to serve more than one country or points in more than one country on the same route segment, that authority does not confer upon the holder any additional rights (including fifth-freedom intermediate and/or beyond rights) in limited-entry markets unless the holder has been specifically designated to conduct such services and the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights. In such cases, the fact that the carrier may hold authority to serve the countries (points) at issue on the same segment will not be considered as providing any preference to the holder in a carrier selection proceeding.
- (3) The exercise of the authority granted here is subject to the holder's first obtaining from the appropriate foreign governments such operating rights as may be necessary.
- (4) The holder acknowledges that the authority to serve Japan and the Philippines on this certificate is granted to determine if the holder's projected services, efficiencies, methods, rates, fares, charges, and other projected results will, in fact, materialize and remain for a sustained period of time, and to determine whether the holder will provide the innovative and low-priced air transportation it proposed in its application for this authority.

- (5) The holder's authority is effective only to the extent that such operations are also authorized by the Federal Aviation Administration (FAA).
- (6) The holder shall at all times remain a "Citizen of the United States" as required by 49 U.S.C. 40102(a)(15).
- (7) The holder shall maintain in effect liability insurance coverage as required under 14 CFR Part 205. Failure to maintain such insurance coverage will render a certificate ineffective, and this or other failure to comply with the provisions of Subtitle VII of 49 U.S.C. or the Department's regulations shall be sufficient grounds to revoke this certificate.
- (8) Should the holder propose any substantial changes in its ownership, management, or operations (as that term is defined in 14 CFR 204.2(n)), it must first comply with the requirements of 14 CFR 204.5.
- (9) In the event that the holder commences operations for which it was found "fit, willing, and able," and subsequently ceases all such operations, its authority under this certificate shall be suspended under the terms of 14 CFR 204.7 and the holder may neither recommence nor advertise such operations unless its fitness to do so has been redetermined by the Department. Moreover, if the holder does not resume operations within one year of its cessation, its authority shall be revoked for dormancy.
- (10) The authority on segments 3 (Japan), 4 (the Philippines), 5, (the Philippines), and 6 (Japan) shall expire December 8, 2002, unless the Department earlier suspends, modifies, or deletes the authority.
- (11) The authority on segment 7 shall expire on April 26, 1999, unless the Department earlier suspends, modifies, or deletes the authority.
- (12) The authority on segment 9 shall expire on September 22, 2000, unless the Department earlier suspends, modifies, or deletes the authority.
- (13) The authority on segment 10 shall expire on December 5, 2001, unless the Department earlier suspends, modifies, or deletes the authority.
- (14) The authority on segment 12 to serve the Philippines shall expire December 8, 2002, unless the Department suspends, modifies, or deletes the authority.

(15) The authority on segment 13 shall expire on September 22, 2000, unless the Department earlier suspends, modifies, or deletes the authority.

(16) The authority on segment 14 shall expire on July 12, 1999, unless the Department earlier suspends, modifies, or deletes the authority.

This certificate shall become effective December 8, 1997, provided, that prior to the date on which this certificate would otherwise become effective, the Department either on its own initiative or on the timely filing of a petition for reconsideration, may by order or orders extend such effective date from time to time.

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\*This certificate, issued by Order 92-11-46, amended by Orders 94-4-41, 94-7-13, 95-1-41, 95-9-23, and 96-10-44, is reissued to reflect the Philippines as an additional coterminal foreign point on segment 12, to renew certificate authority to serve the Philippines and Japan on segments 3, 4, 5, and 6 of this certificate for an additional five years, and to incorporate new standard conditions applicable to U.S. carriers.

